

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

UNITED STATES OF AMERICA

v.

Case number: 2:21-cr-00127

RAYMOND DUGAN

DEFENDANT'S MOTION FOR NEW TRIAL

NOW COMES the defendant, Raymond Dugan by counsel, David Schles, pursuant to Rule 33 of the Federal Rules of Criminal Procedure, and moves this court for an entry of an order awarding the defendant a new trial in the above-styled matter.

In addition to renewing expressly each and every motion and objection previously made in this matter and asserting that each ruling of the court adverse to this defendant constitutes error and requires a new trial of this matter, the defendant offers additional or supplemental grounds as follow.

1. The court erred by denying defendant's motion to compel (sealed), thereby denying defendant of exculpatory evidence, material to the preparation of the defense as to guilt or innocence, and evidence in support of his motion to suppress evidence. The denial of the motion to compel denied defendant of a fair trial and due process.

2. The court erred in denying defendant's motion to suppress because the search warrant in this matter was fatally defective, and it was error to permit the government to introduce evidence seized from his residence, including the electronic files containing digital images or

video recordings containing child pornography. The court further erred by declining to suppress, as fruit of the poisonous tree, all incriminating statements which Mr. Dugan made on June 11, 2020, to law enforcement officers.

The court was incorrect in concluding: that the Foreign Law Enforcement Agency (FLA) which alerted The United States Department of Homeland Security did not conduct an illegal warrantless entry of Mr. Dugan's computer; that the warrantless entry into Mr. Dugan's computer's operating system did not constitute a search for purposes of Fourth Amendment analysis; that Mr. Dugan had no reasonable expectation of privacy his computer's IP address or the files contained on his hard drive; that when it infiltrated the defendant's computer, the FLA was not operating with the knowledge of and the behest of the United States; and that the *Leon* good faith exception to the warrant requirement would apply and allow admission of the challenged evidence even if the warrant was deemed defective.

3. The verdict was against the weight of the evidence.

Respectfully Submitted,
Raymond Dugan
By counsel,

s/ David Schles
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CERTIFICATE OF SERVICE

I, David Schles, counsel for defendant, Raymond Dugan do hereby certify that on this 16th day of August 2022, the foregoing DEFENDANT'S MOTION FOR NEW TRIAL was served upon the following by CM/EMF electronic filing:

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